
REMARKS

This is a complete and timely response to the outstanding non-final Office Action mailed October 19, 2004. Claims 1 – 18 remain pending. As indicated above, Applicants amended independent claims 1, 7, and 13 and dependent claims 3, 4, 9, 10, 15, and 16. Applicants respectfully request that the application and presently-pending claims be reconsidered and allowed.

I. Petition for One-Month Extension of Time

Pursuant to 37 C.F.R. §1.136(a), Applicants submit the attached Petition for Extension of Time, requesting an extension of time of one month -- extending the time for responding to the non-final Office Action mailed October 19, 2004 to February 22, 2005. Pursuant to 37 C.F.R. 1.7, the period for responding to the outstanding Office Action within the one-month extended time period (which expires on February 19, 2005) is extended to February 22, 2005 because of the intervening Saturday, Sunday, and Federal Holiday (President's Day).

II. Claims 1 – 18 are Directed to Statutory Subject Matter

The Office Action rejects claims 1 – 18 under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Specifically, the Office Action alleges that independent claim 1 "is merely an abstract idea (e.g., a mathematical formula) as it is not tied to the computer arts." Applicants respectfully assert that With regard to independent claims 7 and 13, the Office Action asserts that:

Claim 7 recites “computer code”, while claim 13 recites “logic”. However, the computer code is not stored on a computer readable medium and the “logic” is not embedded in a computer, for example, that is used to implement the claimed system.

Without acquiescing to the merits of this rejection, Applicants note that independent claims 1, 7, and 13 have been amended as indicated above to further clarify that the method recited in independent claim 1 is “at least partially implemented via a computer”, the computer program recited in independent claim 7 is “embodied in a computer-readable medium”, and the system recited in independent claim 13 comprises “at least one processing unit for implementing” the recited logic. Accordingly, Applicants respectfully assert that independent claims 1, 7, and 13 are directed to statutory subject matter and, therefore, the rejection under §101 should be withdrawn and the claims be allowed.

II. Claims 3, 4, 9, 10, 15 and 16 Comply with 35 U.S.C. §112, Second Paragraph

The Office Action rejects claims 3, 4, 9, 10, 15 and 16 under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point and distinctly claim the subject matter which applicants regard as the invention. Specifically, the Office Action states that claims 3, 9, and 15 have insufficient antecedent basis for the recitation “the list,” and claims 4, 10, and 15 16 have insufficient antecedent basis for the recitation “the same.”

Applicants note that claims 3, 4, 9, 10, 15, and 16 have been amended as indicated above to resolve the alleged antecedent basis issue. Specifically, claims 3, 9, and 15 have been amended to remove the recitation “the list”, and claims 4, 10, and 16 have been amended to

remove the recitation “the same”. Amended claims 3, 9, and 15 recite “sorting the individuals in a list based on the score.” Amended claims 4, 10, and 16 recite “the individuals are sorted on the list by a ranking.” To the extent that any antecedent basis existed in the original claims, Applicants respectfully submit that it has been addressed and resolved by these claim amendments. Accordingly, Applicants respectfully request that the rejection be withdrawn and the claims be allowed.

III. Claims 1 – 18 are Patentable Over Cited Art

The Office Action rejects claims 1 – 18 under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,505,168 to Rothman *et al.* (“the ‘168 patent”). Applicants respectfully submit that this rejection is improper because the ‘168 patent does not disclose, teach, or suggest ***each and every element*** of the claimed methods (claims 1 – 6), computer programs (claims 7 – 12), and systems (claims 13 – 18).

In order to establish a prima facie case of anticipation under §102(e), ***each and every element*** of the claims must be set forth in a single prior art reference. MPEP § 2131 (citing Verdegaal Bros. v. Union Oil Co of Ca., 814 F.2d 628, 631 (Fed. Cir. 1987)). Applicants respectfully submit that the rejection is improper for at least the reason that the ‘168 patent does not disclose or teach the feature/element/limitation of “calculating a score for a plurality of individuals based on survey information requested from the plurality of individuals and the model” -- which is recited in independent claims 1, 7, and 13.

The '168 patent discloses a system and method for gathering and standardizing customer purchase information for target marketing. The customer scoring system disclosed in the '168 patent involves scoring individual customers based on the manner in which their customer information is placed into an organizational structure. The scoring system is performed customer by customer based on the mapping of the individual customer information to the standard organizational structure. The organizational structure is "a hierarchical structure of categories and sub-categories" that defines a standardized method for scoring each individual customer. Figure 1, col. 3, ll. 21 – 26. Each individual customer score is determined by (1) receiving customer purchaser information associated with the individual customer from a plurality of different sources, (2) placing the customer purchase information for the individual customer into the organizational structure, and (3) generating a score (for the individual customer) based on the placement of the customer information in the organizational structure.

Unlike the methods, computer programs, and systems recited in independent claims 1, 7, and 13, the scoring system disclosed in the '168 patent does not calculate a score for a plurality of individuals *based on survey information requested from the plurality of individuals*. Rather, the '168 patent discloses a customer-by-customer approach for scoring an individual customer based on the manner in which the customer purchase information is linked to the categories and/or sub-categories in the standard organizational structure. Although the customer-by-customer approach of the '168 patent may be repeated to calculate an individual score for multiple customers, the calculated scores cannot be based on survey information from *the plurality of individuals* because each score is independently calculated based on the manner in

which it is linked to the organizational structure. In fact, the “standardized” approach disclosed in the ‘168 patent specifically precludes scoring one customer based on information from another customer. The refore, the standardized approach cannot calculate a score for a plurality of individuals based on information from the plurality of individuals. Furthermore, the ‘168 patent does not disclose, teach, or suggest calculating a score *based on survey information*. Although individual customer information may contain “responses to surveys” (col. 2., l. 65 – col. 3, l. 5), the score for an individual customer is generated based on the placement of the customer purchase information into the organizational structure.

Therefore, independent claims 1, 7, and 13 are patentable over the ‘168 patent because the reference fails to disclose, teach, or suggest this feature. Dependent claims 2 – 6 (which depend from independent claim 1), dependent claims 8 – 12 (which depend from independent claim 7), and dependent claims 14 – 18 (which depend from independent claim 13) are also patentable over the ‘168 patent for at least the reason that these claims include all of the features/limitations/elements of the corresponding base claim. Accordingly, Applicants respectfully request that the rejection of claims 1 – 18 be withdrawn and the claims be allowed.

IV. References Made of Record But Not Applied

The references made of record and considered by the Office to be “pertinent to applicant’s disclosure” have been reviewed. Applicants note that none of these references, taken together or individually, disclose, teach, or suggest all of the elements of claims 1 – 18.

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Amendment and Response to First Office Action

Page No. 12

CONCLUSION

For at least the reasons set forth above, Applicants respectfully submit that all rejections have been traversed, and that pending claims 1 – 18 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are courteously requested.

Respectfully submitted,



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Andrew C. Greenberg, Attorney of Record

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Date